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Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	CC Docket No. 95-116
Telephone Number Portability)	RM 8535
)	

Comments of Motorola, Inc.

In accordance with Sections 1.4 and 1.429 of the Commission's Rules, Motorola, Inc. ("Motorola")¹ respectfully submits these comments in support of the Petition for Reconsideration filed May 15, 1997, in the above-captioned proceeding by the American Mobile Telecommunications Association, Inc. ("AMTA"). As detailed below, Motorola shares AMTA's concern that certain decisions contained in the Commission's First Memorandum Opinion and Order and Order on Reconsideration in CC Docket No. 95-116² ("*First MO&O and Order on Reconsideration*") leave traditional SMR operators that may eventually be excluded from the definition of "covered SMR providers" in a serious and potentially costly regulatory limbo. Accordingly, Motorola supports AMTA's requests that: (1) the Commission act expeditiously to address the pending petitions and other filings seeking revision of the existing definition of "covered SMR providers," and (2) the time period for SMR licensees to meet their number

¹ Motorola is a leading providers of components and services for wireless communications, semiconductors, and advanced electronic systems. The company's major equipment businesses include two-way radio, paging and data communications, cellular telephone, personal communications services, automotive, defense, and space electronics, and computers.

² *Telephone Number Portability*, CC Docket No. 95-116, RM 8535, FCC No. 97-74 (First Memorandum Opinion and Order and Order on Reconsideration) (rel. March 11, 1997).

portability obligations be tolled until a decision on the definition of “covered SMR providers” is reached.

I. Background

“Number portability” refers to “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”³ Section 251(b)(2) of the Telecommunications Act of 1996 (“1996 Act”) directs local exchange carriers “to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission.”⁴ Although the 1996 Act generally excludes CMRS providers from the definition of local exchange carriers, and thus, from the obligation under Section 251(b)(2) to provide number portability, the Commission determined, in the First Report and Order and Further Notice of Proposed Rule Making in this proceeding (“*Number Portability First Report and Order*”), that the public interest will be served by extending such an obligation to certain classes of CMRS operators.⁵

In particular, the Commission decided to require cellular, broadband PCS, and “covered SMR providers” – characterized by the Commission as those CMRS operators that “are expected to compete in the local exchange market” – to offer number portability.⁶ “Covered SMR

³ 47 U.S.C. § 153(30).

⁴ 47 U.S.C. § 251(b)(2).

⁵ *Telephone Number Portability*, 11 FCC Rcd 8352, 8431-33 (1996) (First Report and Order and Further Notice of Proposed Rule Making) [hereinafter *Number Portability First Report and Order*].

⁶ *Id.* at 8433.

providers” as defined in this context includes two classes of SMR licensees: (1) 800 MHz and 900 MHz SMR licensees that hold geographic area licenses; and (2) incumbent wide-area SMR licensees, defined as licensees that have obtained extended implementation authorizations, either by rule or by waiver. In addition, within these classes, “covered SMR providers” encompasses only those licensees “that offer real-time, two-way switched voice service that is interconnected with the public switched telephone network, either on a stand-alone basis or packaged with other telecommunications services.”⁷

The implementation schedule adopted in the *Number Portability First Report and Order* requires all cellular, broadband PCS, and “covered SMR” carriers to implement long-term “service provider portability” in accordance with the following deadlines: (1) by December 31, 1998 (the date by which wireline carriers must complete implementation of number portability in the largest MSAs), all cellular, broadband PCS, and covered SMR operators must be capable of querying appropriate number portability database systems in order to deliver calls from their networks to ported numbers anywhere in the country; and (2) by June 30, 1999, all cellular, broadband PCS, and covered SMR providers must offer service provider portability throughout their networks, including the ability to support roaming.⁸

As the Commission is aware, several parties have filed petitions for reconsideration and other pleadings pointing out that the agency’s definition of “covered SMR providers” encompasses many traditional analog SMR operators (*i.e.*, those offering predominantly dispatch

⁷ See *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, 11 FCC Rcd 18455, 18466 (1996) (First Report and Order).

⁸ *Number Portability First Report and Order*, 11 FCC Rcd at 8439-41.

service) at 800 MHz and 900 MHz that have been granted extended implementation schedules, as well as numerous traditional 900 MHz SMRs that acquired geographic area licenses at auction. As noted in these pleadings, the fact that an SMR operator has an extended implementation schedule or a geographic area 900 MHz SMR license, and has some limited ability to offer interconnected real-time, two-way switched voice service, does not mean that the licensee intends to up-grade its traditional analog system functionality in any way that would allow it to compete in the local exchange market, nor does it imply that such licensees are capable of facilitating number portability.⁹ Accordingly, these parties have asked the Commission to revise the definition of “covered SMR providers” to exclude traditional SMR systems that lack the technical capability to perform number portability and whose users do not require or expect such functionality.¹⁰

In the *First MO&O and Order on Reconsideration*, the Commission indicated that the pending petitions seeking reconsideration of the definition of “covered SMRs” will be addressed in a subsequent order.¹¹ At the same time, the Commission also declined several requests for modification of the number portability implementation schedule set forth in the *Number Portability First Report and Order*, stating that “a period of nearly two years is sufficient for

⁹ Traditional analog SMR systems have no mobile switching center, which is an essential building block in order for a system to be upgraded with the technological capabilities necessary to effectuate number portability.

¹⁰ See *First MO&O and Order on Reconsideration* at n.427. See also The American Mobile Telecommunications Association, Inc., Petition for Declaratory Ruling, CC Docket No. 94-54, CC Docket No. 94-102, RM-8143, CC Docket No. 95-116, RM-8535, ET Docket No. 93-62 (filed Dec. 16, 1996); Letter from Mary E. Brooner, Motorola, Inc., to David Furth, CC Docket No. 95-116 (dated May, 19, 1997).

¹¹ *First MO&O and Order on Reconsideration* at n.427.

wireless carriers either to implement the upgrades necessary to perform the database queries themselves, or to make arrangements with other carriers to provide that capability,” and that “it is reasonable to expect wireless carriers to implement long-term service provider portability, including roaming, in their networks in a period of more than two years.”¹²

II. Motorola Supports AMTA’s Requests That The Commission Act Expeditiously To Resolve The Pending Pleadings Concerning The Appropriate Definition Of “Covered SMR Providers” And That The Time Period For SMR Licensees To Meet Number Portability Obligations Be Topped In The Interim

In its Petition for Reconsideration of the *First MO&O and Order on Reconsideration*, AMTA reiterates that the definition of “covered SMR providers” in its current form is overly broad and includes numerous traditional SMR operators.¹³ AMTA notes that traditional SMR systems typically offer interconnection as an add-on feature on only a small percentage of their customer units, which share a limited quantity of telephone numbers assigned to the SMR licensee. AMTA explains that, as a result, traditional SMR users generally do not have individual numbers to “port.”¹⁴

In addition, AMTA points out that the costs of requiring these operators to comply with the Commission’s number portability obligations will be so great that most traditional SMRs will simply elect to eliminate the interconnection option on their systems and limit their operations to non-interconnected, dispatch-only functions.¹⁵ AMTA is convinced that the Commission did not

¹² *Id.*, ¶¶ 127-134.

¹³ The American Mobile Telecommunications Association, Inc., Petition for Reconsideration, CC Docket No. 95-116, RM-8535 (filed May 15, 1997).

¹⁴ *Id.* at 3-4.

¹⁵ *Id.* at 4.

intend to put these licensees “in the position of having to begin the process of fundamentally revamping their systems and businesses to accommodate number portability until the Commission acts on the pending petitions for reconsideration . . . and determines which, if any SMR providers should be required to assume CMRS number portability obligations.”¹⁶ In view of the technical difficulties faced by SMR operators and, indeed, all CMRS providers, in attempting to satisfy their number portability obligations, AMTA urges the Commission to rule on the pending petitions involving the definition of “covered SMR providers” expeditiously, and to toll the number portability implementation schedule as applied to SMR systems until the “covered SMR provider” issue has been resolved.¹⁷

Motorola supports AMTA’s requests. In an *ex parte* letter filed May 19, 1997, Motorola explained in detail the technical limitations that prevent traditional SMR systems from being able to facilitate number portability.¹⁸ In addition, Motorola submitted that requiring these operators to provide number portability will not further the policy goals that the Commission hopes to achieve – namely, promoting competition between providers of local telephone services – through the imposition of number portability obligations because traditional SMR operators do not compete in the market for the provision of local telephone services and their users do not need or expect to be able to “port” numbers associated with the SMR system. For these reasons,

¹⁶ *Id.* at 4-5.

¹⁷ *Id.* at 5-6.

¹⁸ Letter from Mary E. Brooner, Motorola, Inc., to David Furth, CC Docket No. 95-116 (dated May, 19, 1997).

Motorola urged the Commission to revise the definition of "covered SMR providers" to exempt traditional SMR operators from the number portability requirements.

On the basis of the technical limitations described in its May 19, 1997, *ex parte* letter, Motorola agrees wholeheartedly with AMTA's suggestion that a failure to toll the number portability requirements applicable to SMR operators while the Commission rules on the pending pleadings concerning the appropriate definition of "covered SMR providers" will cause numerous traditional SMR systems simply to abandon their limited interconnect capability to avoid having to revamp entirely their system construction. Motorola does not believe that the Commission intended such a result and echoes AMTA's request that the agency resolve the covered SMR issue expeditiously and toll the number portability implementation schedule in the interim.

III. Conclusion

For the reasons set forth above, Motorola supports AMTA's petition for reconsideration of the *First MO&O and Order on Reconsideration* in the above-captioned proceeding, and urges the Commission to act expeditiously on the pending requests for reconsideration of the definition of "covered SMR providers" and to toll the number portability implementation schedule as applied to SMR systems in the interim.

Respectfully submitted,

Handwritten signature of Mary E. Brooner in cursive script.

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CERTIFICATE OF SERVICE

I, Robin Walker, hereby certify that on this 10th day of June, 1997, a true copy of the attached "Comments of Motorola, Inc." has been served, via first class, postage prepaid mail, on the following persons:

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